



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Signed October 31, 2000

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

OSWER Directive 9320.2-12-FS-P

MEMORANDUM

SUBJECT: Transmittal of Policy document entitled "Direct Final Process for Deletions"
(Streamlining the Deletions Process - Revised October 2000)

FROM: Elaine F. Davies, Acting Director
Office of Emergency and Remedial Response

TO: Superfund Regional Policy Managers
Regions 1-10

The purpose of this memorandum is to transmit the revised version of the procedures for deleting sites from the National Priorities List (NPL) using a Streamlined Direct Final Notification Process. The previous version of this Policy dated November 1, 1999, is hereby superseded. This latest revision is being made to address several issues regarding language used in the sample templates, that have now been revised. The new sample templates reflect the latest language that should be utilized.

In the future, the Close-Out Procedures for National Priorities List Sites (OSWER Directive 9320.2-09A-P) will be revised to include this Policy document.

Copies of this Policy, as well as the templates for the Deletion Notices are available from the Superfund Document Center (703) 603-8917 and will soon be available on the Internet at:
[Http://epa.gov/superfund/pubs.htm](http://epa.gov/superfund/pubs.htm).

If you have any questions, please contact your HQ Regional Construction Completion Coordinator or Karen Tomimatsu at (703) 603-8738.

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Direct Final Process for Deletions

(Streamlining the Deletion Process)

(Revised October 2000)

Purpose

This final policy document provides the Regions with a streamlined process for deleting sites from the National Priorities List (NPL). Under this process, sites (**not releases**) will be deleted from the NPL using this direct final notice procedure.

Background

In November 1999, a Policy Document (OSWER Directive 9320.2-09B-FS-P) was issued to give the Regions an alternative streamlined process for Deleting Sites. This Policy has been in place for almost a year, and has been utilized successfully in several Regions. However, during the piloting period, several issues were raised regarding language used in the guidance and in the sample templates which erroneously suggested that deletions are rulemakings. The guidance and templates have been revised to eliminate this language.

Guidelines for Usage

In general, the Agency believes that the direct final procedure is appropriate for sites where deletion is expected to be noncontroversial and no one is expected to submit adverse comments during the comment period. The Agency's experience in deleting sites from the NPL bears out the noncontroversial nature of the process.

In the rare instance where adverse comments are expected, the direct final approach should not be used. Instead the traditional process used to ensure public involvement in deleting sites should be utilized. (See 40 CFR 300.425(e)(4)).

The streamlined procedure is as follows:

- , Regions should coordinate their efforts with the appropriate HQ Regional Coordinator (RC) before using this process.
- , Draft notices should be submitted to HQ RC for review and comment.
- , Regions are required to prepare two notices. These notices are submitted, and published in the Federal Register (FR) as follows: 1) a notice of intent to delete the site; appears in the

"Proposed Rules" section, and 2) direct final notice of deletion appears in the "Rules and Regulations" section.

- , The direct final deletion notice indicates the effective date of deletion and explains the direct final deletion process.
- , Both notices, (notice of intent to delete and direct final deletion Notice) (submitted on separate computer disks) are forwarded to Vickie Reed, (Mail Code 1806A), 1200 Pennsylvania Avenue, NW, Washington DC 20460, for approval and publication in the FR. Her telephone number is (202) 564-6562.
- , If no adverse comments are received, the direct final deletion notice will generally become effective 30 days from the end of the comment period (i.e., generally at least 60 days after publication). The effective date should be at least 30 days after the end of the 30 day minimum public comment period to allow sufficient time to withdraw the direct final notice of deletion before it becomes effective in the event that adverse comments are received on day 29 or 30 of the comment period.
- , If adverse comments are received, the Region must issue a timely notice in the FR withdrawing the direct final notice of deletion and inform the public that the deletion will not take effect. This withdrawal notice must be published in the FR before the effective date of the final deletion notice, and the Regions then must utilize the traditional 2-Step process for deletions.
- , Regions will soon find specific templates for these deletion notices at: <http://epa.gov/superfund/pubs.htm>
- , Through the end of FY2000 a total of eight (8) sites have been deleted from the NPL using the streamlined deletion process. A small sampling includes:
 - , Dutchtown Oil Treatment (Region 6)
 - , Laskin Popular (Region 5)
 - , Palmetto (Region 4)

- , Windom Landfill (Region 5)
- , Monticello (Region 8)
- , Renora, Inc. (Region 2)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL -----]

National Oil and Hazardous Substance Pollution Contingency Plan;

National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the [Enter site name], Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) [enter region] is publishing a direct final notice of deletion of the [Enter site name], Superfund Site (Site), located in [Enter site location: city and state], from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of [Enter state name], through the [Enter state agency name] because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date within 30 days of this publication in the *Federal Register*]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the *Federal Register* informing the public that the deletion will

not take effect.

ADDRESSES: Comments may be mailed to: [Enter site coordinator's name], Remedial Project Manager (RPM) (insert mail code), (include e-mail address, if known), U.S. EPA [insert Region], Use Regional Address, AnyTown, USA XXXXX-XXXX, (Area Code) xx-xxxx or 1-[insert toll-free number].

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA [insert Region] Library, Use Regional Address, AnyTown, USA XXXXX-XXXX, (Area Code) xxx-xxxx, Monday through Friday, [Enter local area] Library, [Enter site library address, phone number, and hours of operation]; [Enter state agency] Department of Environmental Quality, [Enter state location, phone numbers, and hours of operation].

FOR FURTHER INFORMATION CONTACT: [Enter RPM name], Remedial Project Manager (Mail Code), (include e-mail address, if known), U.S. EPA Region [insert Region], Use Regional Address, AnyTown USA, XXXXX-XXXX, (Area Code) xxx-xxxx or 1-800-[insert toll-free number].

SUPPLEMENTARY INFORMATION:

Table of Contents:

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

I. Introduction

EPA [insert Region] is publishing this direct final notice of deletion of the [Enter site name], Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in the Section 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days after this publication in the *Federal Register*] on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the [Enter site name], Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a Site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

- i. responsible parties or other persons have implemented all appropriate response actions required;
- ii. all appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

- (1) The EPA consulted with [Enter State name] on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.
- (2) [Enter State name] concurred with deletion of the Site from the NPL.
- (3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the “Proposed Rules” section of the Federal Register is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.
- (4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.
- (5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA’s right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA

management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

[Enter general site information]

Site History

[Enter general site information including removals]

Remedial Investigation and Feasibility Study (RI/FS)

[Enter general site information]

Record of Decision Findings

[Enter general site information]

Characterization of Risk

[Enter general site information]

Response Actions

[Enter general site information]

Cleanup Standards

[Enter general site information]

Operation and Maintenance - if applicable

[Enter general site information]

Five-Year Review - if applicable

[Enter general site information]

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of [Enter State name], has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, other than O&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date within 30 days of this publication in the *Federal Register*]. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated:

[insert RA Name]

Regional Administrator

Region []

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300 - [AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B - [Amended]

2. Table 1 of Appendix B to Part 300 is amended under [Enter State name] (“XX”) by removing the site name “[Enter site name]” and the city “[Enter site city location].”

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

National Oil and Hazardous Substance

Pollution Contingency Plan

National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the [Enter site name] Superfund Site from the National Priorities List

SUMMARY: The Environmental Protection Agency (EPA) Region [insert Region] is issuing a notice of intent to delete [Enter site name] Superfund Site (Site) located in [Enter site location: city and state], from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of [Enter State name], through the [Enter State Agency name], have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

In the “Rules and Regulations” Section of today’s Federal Register, we are publishing a direct final notice of deletion of [enter site name] Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse

comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this Federal Register.

DATES: Comments concerning this Site must be received by [insert date within 30 days of this publication in the *Federal Register*].

ADDRESSES: Written comments should be addressed to: [Enter coordinator name], Community Involvement Coordinator, U.S. EPA (Mail Code), Use Regional Address, AnyTown, USA XXXXX-XXXX, (include e-mail address, if known), (area code) xxx-xxxx 1-800-toll-free.

FOR FURTHER INFORMATION CONTACT: [Enter RPM name], Remedial Project Manager, U.S. EPA (Mail Code), Use Regional Address, AnyTown USA XXXXX-XXXX, (include e-mail address, if known), (area code) xxx-xxxx or 1-800-toll-free.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this Federal Register.

INFORMATION REPOSITORIES: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region [insert Region] Library, Use Regional Address, AnyTown, USA XXXXX-XXXX, (area code) xxx-xxxx, Monday through Friday, [Enter local area] Library, [Enter site library address, phone number, and hours of operation];

[Enter state agency] Department of Environmental Quality, [Enter state location, phone numbers, and hours of operation].

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated:

[Enter Regional Administrator]

Regional Administrator,

Region []

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

National Oil and Hazardous Substance

Pollution Contingency Plan

National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of direct final Notice of Deletion

SUMMARY: On [insert date] EPA published a notice of intent to delete [insert FR cite] and a direct final notice of deletion insert FR cite] for the [insert Site name] from the National Priorities List. The EPA is withdrawing the final notice of deletion due to adverse comments that were received during the public comment period. After consideration of the comments received, if appropriate, EPA will publish a notice of deletion in the Federal Register based on the parallel notice of intent to delete and place a copy of the final deletion package, including a Responsiveness Summary in the Site repositories.

EFFECTIVE DATE: This withdrawal of the direct final action is withdrawn as of [date of publication in the *Federal Register*].

ADDRESSES: Comprehensive information on the Site, as well as the comments that were received during the comment period are available at:: [Enter coordinator name], Community Involvement Coordinator, U.S. EPA (Mail Code), Use Regional Address, AnyTown, USA XXXXX-XXXX, (area code)xxx-xxxx or 1-800-toll-free.

FOR FURTHER INFORMATION CONTACT: [Enter RPM name], Remedial Project Manager,
U.S. EPA (Mail Code), Use Regional Address, AnyTown, USA XXXXX-XXXX,
(Area Code) xxx-xxxx or 1-800-toll-free.

INFORMATION REPOSITORIES: Repositories have been established to provide detailed
information concerning this decision at the following address: U.S. EPA Region [insert Region] Library,
Use Regional Address, AnyTown, USA XXXXX-XXXX, (Area Code) xxx-xxxx, Monday through
Friday 8:00 a.m. to 12:00 p.m.; [Enter local area] Library, [Enter site library address, phone number,
and hours of operation]; [Enter state agency] Department of Environmental Quality, [Enter state
location, phone numbers, and hours of operation].

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental
relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control,
Water Supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991
Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated:

[insert RA]

Regional Administrator,

EPA Region [insert region].

Accordingly, the amendment to Table 1 of Appendix B to CFR Part 300 to remove the Site for [insert Site name] is withdrawn as of [insert date of Publication in Federal Register]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

National Oil and Hazardous Substance

Pollution Contingency Plan

National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the [Enter site name] Superfund Site from the National Priorities List

SUMMARY: The Environmental Protection Agency (EPA) Region [insert Region] is issuing a notice of intent to delete [Enter site name] Superfund Site (Site) located in [Enter site location: city and state], from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of [Enter State name], through the [Enter State Agency name], have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

In the “Rules and Regulations” Section of today’s Federal Register, we are publishing a direct final notice of deletion of [enter site name] Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse

comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this Federal Register.

DATES: Comments concerning this Site must be received by [insert date within 30 days of this publication in the *Federal Register*].

ADDRESSES: Written comments should be addressed to: [Enter coordinator name], Community Involvement Coordinator, U.S. EPA (Mail Code), Use Regional Address, AnyTown, USA XXXXX-XXXX, (include e-mail address, if known), (area code) xxx-xxxx 1-800-toll-free.

FOR FURTHER INFORMATION CONTACT: [Enter RPM name], Remedial Project Manager, U.S. EPA (Mail Code), Use Regional Address, AnyTown USA XXXXX-XXXX, (include e-mail address, if known), (area code) xxx-xxxx or 1-800-toll-free.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this Federal Register.

INFORMATION REPOSITORIES: Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region [insert Region] Library, Use Regional Address, AnyTown, USA XXXXX-XXXX, (area code) xxx-xxxx, Monday through Friday, [Enter local area] Library, [Enter site library address, phone number, and hours of operation];

[Enter state agency] Department of Environmental Quality, [Enter state location, phone numbers, and hours of operation].

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated:

[Enter Regional Administrator]

Regional Administrator,

Region []